



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/588,805

01/25/2008

George Bowen

02867

4634

987

7590

08/05/2010

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 029037128

EXAMINER

MORROW, JASON S

ART UNIT

PAPER NUMBER

3612

NOTIFICATION DATE

DELIVERY MODE

08/05/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ssullivan@saltermichaelson.com
pblackwell@saltermichaelson.com
gkelly@saltermichaelson.com

Office Action Summary	Application No. 10/588,805	Applicant(s) BOWEN, GEORGE	
	Examiner Jason S. Morrow	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,8,20-25,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2,4,8,20,21,23-25,27 and 28 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 4, 8, 20, 21, 25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaus et al. (US Patent 6,527,327) in view of Japanese Publication 4-60726.

Gaus et al. discloses a rest (2) for use in a vehicle comprising a housing having a sloping upper face (14) and means (9) for adjusting the position of the housing relative to the vehicle. The housing defines a storage space (19) and has a pivotal lid (14) which provides the sloping upper face and may be pivoted between an open position (shown in figure 5) allowing access to the storage space and a closed position. The lid has an angled cross-section (a cross section of the lid includes angles at each corner of the cross section). The lid has first and second contiguous, but differently sloping face surfaces including a first surface (the top surface of the lid) and a second surface (the side edge of the lid that is perpendicular to the top surface of the lid and furthest from the pivot). Only the first surface is a rest surface. The first surface has a free end directed toward the user.

Gaus et al. does not disclose the open position of the lid allowing access to the storage space and at the same time providing a support for the calves of a user.

Japanese Publication 4-60726 teaches an open position of a lid allowing access to a storage space and at the same time providing support for the calves of a user by propping the lid

Art Unit: 3612

open (see the paragraph before the “Effects of the Utility Model” heading in applicant’s provided translation of the reference).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a lid, such as that disclosed by Gaus et al., to have the open position of the lid allow access to the storage space and at the same time provide a support for the calves of a user, as taught by Japanese Publication 4-60726, in order to allow for more adjustment that allows the user of the device to put it in a more comfortable configuration.

Gaus et al. and Japanese Publication 4-60726 do not disclose a layer of carpet on the sloping upper face.

The examiner takes Official Notice that the use of carpet in vehicles is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a sloping upper surface of a foot rest, such as that disclosed above, to have a layer of carpet, as is old and well known in the art, in order to finish the device in aesthetically pleasing way that matches the floor of a vehicle in which the footrest is used.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3612

4. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaus et al. (US Patent 6,527,327) and Japanese Publication 4-60726 in view of Holweg et al. (4,275,914).

Gaus and Japanese Publication 4-60726 discloses all the limitations of the claims, as applied above, except for the a motorized rack and pinion arrangement, the arrangement operative to move the housing on a pair of rails adapted to be fixed to the floor of the vehicle, and an electric motor.

Holweg et al. teaches a motorized rack and pinion arrangement (25, 24), the arrangement operative to move a device on a pair of rails adapted to be fixed to the floor of a vehicle, and an electric motor (16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the footrest of Gaus with a motorized rack and pinion arrangement, the arrangement operative to move the housing on a pair of rails adapted to be fixed to the floor of the vehicle, and an electric motor, because the technique of providing a powered system for moving a vehicle appurtenance is well known to one of ordinary skill in the art and applying the technique taught by Holweg et al. to the device of Gaus et al. does no more than yielding the predictable result of allowing the footrest to be further adjusted for passenger comfort.

Allowable Subject Matter

5. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 5/20/2010 have been fully considered but they are not persuasive.

The examiner appreciates applicant's attempt in the response to place the claims in condition for allowance. However, in amending the claims to overcome the 112 2nd paragraph rejection of claim 21, the claims became slightly broader and thus necessitated the rejection above. The examiner attempted to contact applicant's representative on June 29, June 30, and August 2 in order to suggest adding the word "top" between the words "sloping face" in line 12 of claim 21 to overcome the rejection above, but was unable to reach the representative.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3612

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663.

The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason S. Morrow/
Primary Examiner, Art Unit 3612

August 2, 2010